

Attachment 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

THE TRANSPARENCY PROJECT,

Plaintiff,

vs.

**U.S. DEPARTMENT OF JUSTICE
and the NATIONAL SECURITY
AGENCY,**

Defendants

Case No. 4:20-cv-467

Declaration of Drew Lavine

I, Drew Lavine, declare the following to be true and correct:

1. I am a Trial Attorney with the Freedom of Information Act (“FOIA”)/Privacy Act (“PA”) Unit in the Office of Enforcement Operations in the Criminal Division of the United States Department of Justice (“DOJ”). I have held this position since June 22, 2020. In my official capacity, I serve as Agency Counsel for the Criminal Division. I provide litigation support and assistance to Assistant United States Attorneys and Civil Division Trial Attorneys who represent the Criminal Division in lawsuits filed under the FOIA and/or the PA stemming from requests for Criminal Division Records.

2. The FOIA/PA Unit is responsible for processing FOIA requests that seek records from within the Criminal Division. The FOIA/PA Unit determines whether the Criminal Division maintains records responsive to FOIA/PA requests, and if so, whether they can be released in accordance with the FOIA. In processing such requests, the FOIA/PA Unit consults with personnel in the Criminal Division sections where potentially responsive records may be

maintained and, when appropriate, with other components within the DOJ, as well as with other Executive Branch agencies.

3. Due to the nature of my official duties, I am familiar with the procedures followed by the Criminal Division in responding to requests for information from its files pursuant to the provisions of the FOIA, 5 U.S.C. § 552, and the PA, 5 U.S.C. § 552a. Specifically, I am familiar with the FOIA requests submitted by the Plaintiff to the Criminal Division, at issue in this litigation, and the Criminal Division's response to those requests.

4. I make the statements herein on the basis of personal knowledge, as well as on information provided to me by others within the Criminal Division with knowledge of the FOIA requests at issue in this case and on information acquired by me in the course of performing my official duties in the FOIA/PA Unit.

Plaintiff's FOIA Requests

October 26, 2018 FOIA Request

5. By email dated October 26, 2018, Plaintiff submitted a FOIA request to the Criminal Division of the United States Department of Justice for records related to five named third parties that were the subject of a U.S. House of Representatives investigation. (A copy of Plaintiff's first FOIA request is attached hereto as Exhibit A).

6. By email and letter dated November 9, 2018, the FOIA/PA Unit assigned request number CRM-300684967 to Plaintiff's first request. In the same letter, the Criminal Division advised Plaintiff that his request was misdirected because it sought records maintained by the Executive Office of the United States Attorneys (EOUSA). Plaintiff's FOIA request does not seek records relating to the Criminal Division of the Department of Justice. Instead, his request is for records which pertain to EOUSA. The FOIA/PA Unit notified Plaintiff that the Criminal

Division routed the request to EOUSA and administratively closed the request file within the FOIA/PA Unit. (Copies of the FOIA/PA Unit's email and response letter are attached hereto as Exhibits B and C).

7. In addition, Plaintiff was advised in the letter that if he was not satisfied with the response to his request, he had ninety (90) days from the date of the response to file an administrative appeal with the Office of Information Policy (OIP). (See Exhibit C.)

8. On November 9, 2018, the Criminal Division routed Plaintiff's request to EOUSA. (Copies of the FOIA/PA Unit's email and response letter are attached hereto as Exhibits D and E).

June 11, 2020 FOIA Request

9. By email dated June 11, 2020, Plaintiff submitted a FOIA request to the Criminal Division of the United States Department of Justice seeking records disclosed by the FBI in another FOIA litigation, *Judicial Watch, Inc. v. U.S. Department of Justice*, Case No. 1:18-cv-02563. (A copy of Plaintiff's second request is attached hereto as Exhibit F). The request at issue in the *Judicial Watch, Inc.* FOIA litigation identified by Plaintiff pertains to the named third parties identified in Plaintiff's first request.

10. The FOIA/PA Unit assigned request number CRM-301229808 to Plaintiff's second request.

11. On August 9, 2020, the FOIA Unit conducted searches of its electronic filing system and shared drive to locate any records potentially responsive to Plaintiff's request. Those searches did not identify any records responsive to Plaintiff's second request.

12. By email and letter dated August 25, 2020, the FOIA/PA Unit advised Plaintiff that the Criminal Division did not possess records responsive to his second request. (Copies of the FOIA/PA Unit's email and response letter are attached hereto as Exhibits G and H).

13. In addition, Plaintiff was advised in the letter that if he was not satisfied with the response to his request, he had ninety (90) days from the date of the response to file an administrative appeal with the Office of Information Policy (OIP). (See Exhibit H.)

14. On June 12, 2020, Plaintiff filed the complaint, in the instant case. On July 20, 2020, Plaintiff filed an amended complaint.

Failure to Exhaust Administrative Remedies

15. DOJ regulations, codified at 28 C.F.R. Part 16, permit FOIA requesters to administratively appeal agency responses within 90 days of receipt of the agency's response. In both of its responses to Plaintiff's request, the FOIA/PA Unit advised Plaintiff of his administrative appeal rights and provided instructions for submitting an administrative appeal. The Plaintiff did not administratively appeal the FOIA/PA Unit's response to either request.

I declare under penalty of perjury that the foregoing is true and correct.

Drew Lavine

Drew Lavine

Executed this day of January 7, 2021

Exhibit A

From: [Ty Clevenger](#)
To: [MRUFOIA Requests](#)
Cc: [NSD Public \(NSD\)](#); [CRM FOIA \(CRM\)](#); [FOIPAQUESTIONS](#)
Subject: FOIA request
Date: Friday, October 26, 2018 3:24:39 PM
Attachments: [2018.10.26 Imran Awan FOIA.pdf](#)

Please confirm receipt. I will also submit via the electronic portal.

THE TRANSPARENCY PROJECT

P.O. Box 20753
Brooklyn, New York 11202
(979) 985-5289

October 26, 2018

Office of the Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Office of Legislative Affairs
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

National Security Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Executive Office for U.S. Attorneys
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-0001

Via electronic submission

To Whom It May Concern:

In 2017, the inspector general for the U.S. House of Representatives began investigating Imran Awan, Abid Awan, Jamal Awan, Hina Alvi, and Rao Abbas regarding mishandling of computer systems and electronic equipment. *See, e.g.,* Jenna Liffhits, “The IT guy and Wasserman Schultz,” June 15, 2018, *The Weekly Standard*, <https://www.weeklystandard.com/jenna-liffhits/the-strange-case-of-debbie-wasserman-schulzs-it-guy>. On behalf of The Transparency Project, and as permitted by the Freedom of Information Act, I request the following information from the respective entities to whom this letter is addressed:

1. Documents, files, records, and communications (regardless of electronic, paper or other format) referencing Imran Awan.
2. Documents, files, records, and communications (regardless of electronic, paper or other format) referencing Abid Awan.
3. Documents, files, records, and communications (regardless of electronic, paper or other format) referencing Jamal Awan.
4. Documents, files, records, and communications (regardless of electronic, paper or other format) referencing Hina Alvi.

5. Documents, files, records, and communications (regardless of electronic, paper or other format) referencing Rao Abbas.
6. From the National Security Division only, I request documents, files, records, and communications (regardless of electronic, paper or other format) referencing Seth Conrad Rich or "Seth Rich," who is deceased.

Each of the numbered items above should be considered a separate request.

The Transparency Project is a nonprofit Texas corporation and intends to use all of the information requested above to educate the public about government misconduct, therefore I request a waiver of any fees. If charges will apply, please let me know the approximate amount of such charges in advance. I can be reached by email at tyclevenger@yahoo.com if you need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ty Clevenger', with a long horizontal flourish extending to the right.

Ty Clevenger
Executive Director
The Transparency Project

Exhibit B

From: CRM FOIA (CRM)
To: "tyclevenger@yahoo.com"
Subject: FOIA/PA Response CRM-300684967 Clevenger, Ty
Date: Friday, November 9, 2018 11:52:00 AM
Attachments: 300684967 Clevenger Ty (Final Response Letter).pdf

Dear Mr. Clevenger:

Please see the attached, which is this Office's response to your request. If you have any questions, please contact the FOIA/PA Unit at 202-616-0307 for further assistance.

Thank you,

FOIA/PA Unit
Criminal Division
U.S. Department of Justice

Exhibit C



U.S. Department of Justice

Criminal Division

Office of Enforcement Operations

Washington, D.C. 20530

VIA Electronic Mail

November 9, 2018

Mr. Ty Clevenger
The Transparency Project
Post Office Box 20753
Brooklyn, NY 11202
tyclevenger@yahoo.com

Request No. CRM-300684967
Subject: Imran Awan, Abid Awan, Jamal
Awan, Hina Alvi and Rao Abbas

Dear Mr. Clevenger:

The Criminal Division acknowledges receipt of your Freedom of Information Act request dated October 26, 2018. Your request was received in this Office on October 26, 2018. In that request, you asked for access to records concerning the above-mentioned subject. Your request has been assigned file number CRM-300684967. You should refer to this number in any future correspondence with this Office.

As this information may be maintained by a United States Attorney's Office, this Office determined that your request was misdirected to the Criminal Division. The Executive Office for United States Attorneys (EOUSA) is the U.S. Department of Justice component responsible for responding to Freedom of Information Act and Privacy Act requests for information maintained by U.S. Attorneys' Offices. Hence, your request has been routed to EOUSA for processing and a direct response to you. You should contact EOUSA directly at the following address if you have any questions about the status of your routed request.

FOIA/Privacy Staff
Executive Office for United States Attorneys
U.S. Department of Justice
Suite 5.400
3CON Building
175 N Street, NE
Washington, DC 20530

As there is no further action for this Office to take on your request, your request file is being administratively closed in this Office.

As to your request for a fee waiver, your request is moot as there are no fees associated with this request.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a

standard notification that is given to all requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaison at the (202) 616-0307 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in cursive script that reads "Amanda Marchand Jones".

Amanda Marchand Jones
Chief
FOIA/PA Unit

Exhibit D

From: CRM FOIA (CRM)
To: USAEO-FOIA Requests (USA)
Subject: FOIA/PA Misdirected Request CRM-300684967 Clevenger, Ty
Date: Friday, November 9, 2018 11:55:00 AM
Attachments: [300684967 Clevenger Ty \(Final Response Letter\).pdf](#)
[2018 Oct 26 Clevenger Ty.pdf](#)

Pursuant to the OPEN Government Act of 2007, this request is being routed to your Office for processing and a direct response to the requester. The requester has been advised of the routing of this request. Please contact the FOIA/PA Unit at 202-616-0307 if you have any questions.

Thank you,

FOIA/PA Unit
Criminal Division
U.S. Department of Justice

Exhibit E

THE TRANSPARENCY PROJECT

P.O. Box 20753
Brooklyn, New York 11202
(979) 985-5289

October 26, 2018

Office of the Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Office of Legislative Affairs
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

National Security Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Executive Office for U.S. Attorneys
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-0001

Via electronic submission

To Whom It May Concern:

In 2017, the inspector general for the U.S. House of Representatives began investigating Imran Awan, Abid Awan, Jamal Awan, Hina Alvi, and Rao Abbas regarding mishandling of computer systems and electronic equipment. *See, e.g.,* Jenna Lifhits, “The IT guy and Wasserman Schultz,” June 15, 2018, *The Weekly Standard*, <https://www.weeklystandard.com/jenna-lifhits/the-strange-case-of-debbie-wasserman-schulzs-it-guy>. On behalf of The Transparency Project, and as permitted by the Freedom of Information Act, I request the following information from the respective entities to whom this letter is addressed:

1. Documents, files, records, and communications (regardless of electronic, paper or other format) referencing Imran Awan.
2. Documents, files, records, and communications (regardless of electronic, paper or other format) referencing Abid Awan.
3. Documents, files, records, and communications (regardless of electronic, paper or other format) referencing Jamal Awan.
4. Documents, files, records, and communications (regardless of electronic, paper or other format) referencing Hina Alvi.

5. Documents, files, records, and communications (regardless of electronic, paper or other format) referencing Rao Abbas.
6. From the National Security Division only, I request documents, files, records, and communications (regardless of electronic, paper or other format) referencing Seth Conrad Rich or "Seth Rich," who is deceased.

Each of the numbered items above should be considered a separate request.

The Transparency Project is a nonprofit Texas corporation and intends to use all of the information requested above to educate the public about government misconduct, therefore I request a waiver of any fees. If charges will apply, please let me know the approximate amount of such charges in advance. I can be reached by email at tyclevenger@yahoo.com if you need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ty Clevenger', with a long horizontal flourish extending to the right.

Ty Clevenger
Executive Director
The Transparency Project



U.S. Department of Justice

Criminal Division

Office of Enforcement Operations

Washington, D.C. 20530

VIA Electronic Mail

November 9, 2018

Mr. Ty Clevenger
The Transparency Project
Post Office Box 20753
Brooklyn, NY 11202
tyclevenger@yahoo.com

Request No. CRM-300684967
Subject: Imran Awan, Abid Awan, Jamal
Awan, Hina Alvi and Rao Abbas

Dear Mr. Clevenger:

The Criminal Division acknowledges receipt of your Freedom of Information Act request dated October 26, 2018. Your request was received in this Office on October 26, 2018. In that request, you asked for access to records concerning the above-mentioned subject. Your request has been assigned file number CRM-300684967. You should refer to this number in any future correspondence with this Office.

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Executive Office for United States Attorneys
U.S. Department of Justice
Suite 5.400
3CON Building
175 N Street, NE
Washington, DC 20530

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For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a

standard notification that is given to all requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaison at the (202) 616-0307 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in cursive script that reads "Amanda Marchand Jones".

Amanda Marchand Jones
Chief
FOIA/PA Unit

Exhibit F

From: [Ty Clevenger](#)
To: [CRM FOIA \(CRM\); MRUFOIA Requests](#)
Subject: FOIA request
Date: Thursday, June 11, 2020 4:17:22 PM
Attachments: [2020.06.11 Follow-up FOIA.pdf](#)

Please see attachment.

THE TRANSPARENCY PROJECT

P.O. Box 20753
Brooklyn, New York 11202
(979) 985-5289

June 11, 2020

Office of the Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Office of Legislative Affairs
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

National Security Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Executive Office for U.S. Attorneys
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-0001

Via electronic submission

To Whom It May Concern:

On November 7, 2018, Judicial Watch, Inc. filed suit for information that sought pursuant to the Freedom of Information Act ("FOIA"), namely the following:

- (1) Any and all records related to any investigations or preliminary investigations involving former congressional IT support staffers Abid Awan, Imran Awan, Jamal A wan, and Hina R. Alvi. As part of this request, searches should of records [sic] should include, but not be limited to, the FBI automated indices, its older manual indices, and its Electronic Surveillance (EL SUR) Data Management System (EDMS), as well as cross-referenced files.
- (2) Any and all records of communication sent to or from FBI employees, officials or contractors involving the subjects in bullet item 1.

See Judicial Watch, Inc. v. U.S. Department of Justice, Case No. 1:18-cv-02563 (D.D.C.). As permitted by FOIA, and on behalf of the Transparency Project, I request the opportunity to view the same information, to include any information already provided to Judicial Watch.

The Transparency Project is a nonprofit Texas corporation and intends to use all of the information requested above to educate the public about government misconduct, therefore I request a waiver of any fees. If charges will apply, please let me know the

approximate amount of such charges in advance. I can be reached by email at tyclevenger@yahoo.com if you need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ty Clevenger', with a long horizontal flourish extending to the right.

Ty Clevenger
Executive Director

Exhibit G

From: CRM FOIA (CRM)
To: tyclevenger@yahoo.com
Subject: FOIA/PA Final Response CRM-301229808
Date: Tuesday, August 25, 2020 12:43:00 PM
Attachments: [301229808 Final Response Letter.pdf](#)

Dear Mr. Clevenger:

Please see the attached, which is this Office's response to your request. If you have any questions, please contact the FOIA/PA Unit at 202-616-0307 for further assistance.

Thank you,

FOIA/PA Unit
Criminal Division
U.S. Department of Justice

Exhibit H



U.S. Department of Justice

Criminal Division

Office of Enforcement Operations

Washington, D.C. 20530

VIA Electronic Mail

August 25, 2020

Mr. Ty Clevenger
The Transparency Project.
Post Office Box 20753
Brooklyn, NY 11202
tyclevenger@yahoo.com

Request No. CRM-301229808

Dear Mr. Clevenger:

This responds to your Freedom of Information Act request dated June 11, 2020, and received in this Office on June 11, 2020 for a copy of records sought in Judicial Watch, Inc. v. U.S. Department of Justice, No. 1:18-cv-02563 (D.D.C.).

Please be advised that Criminal Division personnel searched the section most likely to maintain records and no responsive records subject to the FOIA were located. The Criminal Division has not processed any records in relation to the above referenced litigation.

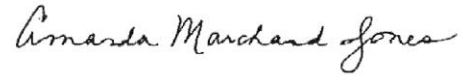
For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaison at the (202) 616-0307 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with the Criminal Division's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account on the following website: <https://foiastar.doj.gov>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal

by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in cursive script that reads "Amanda Marchand Jones".

Amanda Marchand Jones
Chief
FOIA/PA Unit